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HONORABLE FRANK L. KURTZ

8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF WASHINGTON

10 In Re:

11 HI-TECH CONSTRUCTION, INC.,

12 Debtor.

No. 08-05204-FLK11

13 **FINDINGS OF FACT ON**
14 **CONFIRMATION OF THIRD**
15 **AMENDED PLAN**

16 THIS MATTER having come before the Court on September 21st 14, 2010 on
17 confirmation of Debtor's Third Amended Plan filed herein, the proposed Third
18 Amended Plan of Reorganization having filed herein and having been
19 transmitted to the Master Mailing List and all previously objecting parties, after
20 proper notice, and the parties having resolved remaining objections, the
21 objecting parties having been represented by counsel, and the court having been
22 fully advised, hereby finds:

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24 1. Priority issues as between People's Bank, the IRS, and the Unsecured
25 Creditors Committee have been resolved and the resolution incorporated in the
26 Plan.
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FINDINGS OF FACT ON CONFIRMATION
OF THIRD AMENDED PLAN - 1

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1 2. The applicable provisions of 11 U.S.C. Chapter 11 have been
2 complied with by the Plan and the proponent; the Plan has been proposed in
3 good faith and not by any means forbidden by law.
4

5 3. The Plan provides that each holder of a claim or interest has
6 accepted the Plan or will receive or retain under the Plan property of a value, as
7 of the effective date of the Plan, that is not less than the amount that such holder
8 would receive or retain if the Debtor were liquidated under Chapter 7 of the
9 Code on such date;
10

11 4. Any payment made or to be made by the proponent, by the debtor,
12 or by a person issuing securities or acquiring property under the plan, for
13 services or for costs and expenses in or in connection with the case, or in
14 connection with the plan and incident to the case, has been approved by, or is
15 subject to the approval of, the court as reasonable.
16
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18 5. The proponent of the plan has disclosed the identity and affiliations
19 of any individual proposed to serve, after confirmation of the plan, as a director,
20 officer, or voting trustee of the debtor, an affiliate of the debtor participating in a
21 joint plan with the debtor, or a successor to the debtor under the plan; and the
22 appointment to, or continuance in, such office of such individual, is consistent
23 with the interests of creditors and equity security holders and with public policy;
24 and the proponent of the plan has disclosed the identity of any insider that will
25 be employed or retained by the reorganized debtor, and the nature of any
26 compensation for such insider specifically Clark Hicks, Robi Chastain, and
27 Benedict Armstrong.
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1 6. With respect to each impaired class of claims or interests, each
2 holder of a claim or interest of such class has accepted the plan; or will receive
3 or retain under the plan on account of such claim or interest property of a value,
4 as of the effective date of the plan, that is not less than the amount that such
5 holder would so receive or retain if the debtor were liquidated under 11 U.S.C.
6 Chapter 7 on such date.
7

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9 7. Except to the extent that the holder of a particular claim has agreed
10 to a different treatment of such claim, the plan provides that, with respect to a
11 claim of a kind specified in 11 U.S.C. section 507 (a)(2) or 507 (a)(3), on the
12 effective date of the plan, the holder of such claim will receive on account of
13 such claim cash equal to the allowed amount of such claim; with respect to a
14 class of claims of a kind specified in 11 U.S.C. section 507 (a)(1), 507 (a)(4)
15 (wages), 507 (a)(5) (employee benefit plan contribution), 507 (a)(6) (agriculture
16 and fisheries), or 507 (a)(7)(rental deposits), each holder of a claim of such class
17 will receive, if such class has accepted the plan, deferred cash payments of a
18 value, as of the effective date of the plan, equal to the allowed amount of such
19 claim;
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22
23 8. With respect to a claim of a kind specified in 11 U.S.C. section 507
24 (a)(8) (taxes), the holder of such claim will receive on account of such claim
25 regular installment payments in cash-of a total value, as of the effective date of
26 the plan, equal to the allowed amount of such claim; over a period ending not
27 later than 5 years after the date of the order for relief under 11 U.S.C. section
28 301, 302, or 303; and in a manner not less favorable than the most favored non-
29 priority unsecured claim provided for by the plan (other than cash payments
30 made to a class of creditors under section 11 U.S.C. section 1122 (b)

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1 9. With respect to a secured claim which would otherwise meet the
2 description of an unsecured claim of a governmental unit under 11 U.S.C.
3 section 507 (a)(8), but for the secured status of that claim, the holder of that
4 claim will receive on account of that claim, cash payments, in the same manner
5 and over the same period, as described in Paragraph 8, above.
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7
8 10. At least one class of claims that is impaired under the plan has
9 accepted the plan, determined without including any acceptance of the plan by
10 any insider.
11

12 11. Confirmation of the plan is not likely to be followed by the
13 liquidation, or the need for further financial reorganization, of the debtor or any
14 successor to the debtor under the plan, unless such liquidation or reorganization
15 is proposed in the plan.
16

17
18 12. All U.S. Trustee fees payable under section 1930 of title 28, as
19 determined by the court at the hearing on confirmation of the plan, have been
20 paid or the plan provides for the payment of all such fees on the effective date of
21 the plan.
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23
24 13. With respect to a class of secured claims, the plan provides, that the
25 holders of such claims retain the liens securing such claims, whether the
26 property subject to such liens is retained by the debtor or transferred to another
27 entity, to the extent of the allowed amount of such claims; and that each holder
28 of a claim of such class receive on account of such claim deferred cash payments
29 totaling at least the allowed amount of such claim, of a value, as of the effective
30

1 date of the plan, of at least the value of such holder's interest in the estate's
2 interest in such property;

3
4 14. With respect to a class of secured claims the plan provides that each
5 holder of a claim of such class receive or retain on account of such claim
6 property of a value, as of the effective date of the plan, equal to the allowed
7 amount of such claim; or the holder of any claim or interest that is junior to the
8 claims of such class will not receive or retain under the plan on account of such
9 junior claim or interest any property,
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12 15. The plan does not discriminate unfairly, and is fair and equitable,
13 with respect to each class of claims or interests that is impaired under, and has
14 not accepted, the plan.
15

16 NOW THEREFORE, having made the above Findings, the Court hereby
17 concludes:
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19 1. The Third Amended Plan, including all changes and agreed
20 revisions should be confirmed.

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23 HONORABLE FRANK L. KURTZ

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26 MURPHY, BANTZ & BURY, P.S.
27 /s/ Steven Schneider

28 STEVEN SCHNEIDER, WSBA No. 22622
29 Attorney for Debtor-in-Possession
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FINDINGS OF FACT ON CONFIRMATION
OF THIRD AMENDED PLAN - 5

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